

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Joy Campbell et al.	Examiner:	Valarie E Bertoglio
Serial No.:	10/074,896	Group Art Unit:	1632
Filed:	February 13, 2002	Docket No.:	1828.003US1
Title:	POULTRY FEED SUPPLEMENT FOR INCREASING POULTRY BREAST MEAT WEIGHT		

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.111

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

This responds to the Office Action dated April 14, 2006. Please amend the above-identified patent application as follows.

IN THE CLAIMS

Cancel claims 2-5 and 8-9 and amend claims 1, 6, 10-12, 14 and 17 as follows:

1. (Currently Amended) A method of increasing the yield of breast meat and decreasing the yield of thigh and leg meat from poultry comprising: administering to poultry a ~~supplement comprising spray-dried animal plasma serum, wherein the serum is administered at a concentration of about 0.05 - 3.0% by weight of the poultry's water supply~~, so as to increase the yield of breast meat from the poultry, while decreasing the yield of thigh and leg meat from said poultry.

2-5. (Cancelled)

6. (Currently Amended) A method according to claim[[5]] 1 whereby the ~~supplement serum~~ is administered at a concentration of ~~up to~~ about 0.1-1.5% by weight of the poultry's water supply.

7-9. (Cancelled)

10. (Currently Amended) A method according to claim 1 wherein the source of the animal ~~plasma serum~~ is a transgenic animal.

11. (Currently Amended) A method according to claim 1 wherein the source of the animal ~~plasma serum~~ is a livestock animal.

12. (Currently Amended) A method according to claim 1 wherein the source of the animal ~~plasma serum~~ is poultry, porcine or bovine blood.

13. (Original) A method according to claim 1 whereby the poultry is selected from the group consisting of chickens, turkeys, Cornish hens, pheasants, ducks, and geese.

14. (Currently Amended) A method according to claim 1 wherein the supplement serum is administered to newly hatched during all stages of the life cycle of the poultry.

15-16. (Canceled)

17. (Currently Amended) A method according to claim 1 wherein the administration of the supplement serum increases the yield of breast meat by about 6-8% by weight.

18-30. (Canceled)

REMARKS

Claims 2-5 and 8-9 having been cancelled, and claims 1, 6, 10-12, 14 and 17 having been amended, the claims pending in the application are claims 1, 6, 10-14 and 17.

Reconsideration and withdrawal of the claims of the above-identified application in view of the amendments and remarks presented herein is respectfully requested.

Claim 1 has been amended to recite that spray-dried animal serum is administered via the water supply of the poultry. This amendment is supported at page 3, line 29-page 4, line 6, and by Example 1 (see, e.g., page 11, lines 4-10). The advantages of administering serum, as opposed to untreated plasma, are disclosed at page 8, lines 20-26 and at page 9, lines 24-28.

The amendment to claim 6 is supported by page 8, lines 23-26.

The amendment to claim 17 is supported at page 4, lines 27-28.

At pages 2-3 of the Office Action, the Examiner rejected claims 1-4, 8-9, 11-14 and 17 for obviousness-type double patenting over claims 1-4 and 6-8 of Weaver et al. (U.S. Patent No. 6,004,576). This rejection is respectfully traversed. The claims of the Weaver '576 patent are directed to a method of increasing weight gain and feed efficiency of animals in the first stages of life by administering a supplement made by forming dried animal plasma into "granulated particles" having a specific size and density. The fact that claim 2 recites "oral" administration can not be read to suggest dissolving the granules in the water supply of chickens. This would defeat the stated purpose and novel features of the invention, which lie in the recited compression and screening process. Therefore, it is respectfully submitted that, as amended, the present claims are not obvious in view of the claims of the '576 patent.

At pages 3-5 of the Office Action, the Examiner rejected claims 1-4, 8-14 and 17 as anticipated by the Weaver et al. '576 patent. This rejection is respectfully traversed.

To constitute an anticipatory prior art, a reference must contain all of the elements of the later-claimed invention. Applicants note that claims 5-6, which recite administration of certain concentrations of spray-dried serum in the poultry's water supply, were not subjected to this rejection. Claim 4, which recites that the spray dried plasma is administered via the poultry's water supply, is not anticipated for the same reason, since the '576 patent does not disclose or suggest administering spray-dried serum in solution in the poultry's water supply. As noted above, the '576 patent, fairly read, does not suggest preparing a specific granulated dry plasma

product and then destroying its novel and advantageous properties by dissolving it in an animal's water supply. "Oral administration" in the context of the '576 patent can only be read to encompass ingestion of a dry feedstuff. Therefore, Weaver et al. do not disclose all the elements of the claimed invention, and withdrawal of this rejection is appropriate and is respectfully requested.

At pages 5-6 of the Office Action, the Examiner rejected all of the claims as obvious over Adalsteinsson (U.S. Pat. No. 6,086,878). This rejection is respectfully traversed.

It is respectfully submitted that the Examiner is applying impermissible hindsight to derive applicants' claimed invention from the disclosure of the '878 patent. This is evidenced by the fact that the Examiner incorrectly asserts that this patent teaches using spray-dried plasma.

More specifically, the Examiner argues that:

'878 teaches using spray-dried plasma in place of spray-dried egg (col. 2, lines 6-8; col. 7, lines 39-41; col. 8, lines 60-65). Adalsteinsson taught feeding the spray-dried egg yolks or plasma as a feed supplement.

This is not the case. The sections of Adalsteinsson cited by the Examiner do not mention spray-dried plasma and do not teach that administration of spray-dried plasma, even following hyperimmunization of the donor animal, would provide an effective amount of the "gastrointestinal neuron-modulator antibodies" that are an essential feature of the '878 patent. Rather, the cited sections read as follows:

The antibodies to be transformed generally are derived from milk, colostrum, serum, egg yolk and even monoclonal antibodies from hybridomas [col. 2, lines 4-9].

* * *

In addition to eggs and milk, antibodies can be obtained from whole blood, plasma or serum from any inoculated animal [col. 7, lines 39-42].

* * *

While eggs, and more preferably, hyperimmunized eggs, are the preferred source of massive quantities of antibodies, it is possible, as stated earlier to collect the antibodies from milk, whole blood, plasma or serum of the target animal [col. 8, lines 60-65]. [emphasis added]

This section does not mention spray-drying plasma or serum. Rather, these sections reference isolation or collection steps which are set forth in more detail at col. 9, lines 1-11. Therefore, it is clear from a complete reading of the '878 patent, that it does not disclose or suggest spray-drying animal serum and feeding it to poultry via the water supply, in order to alter the ratio of breast meat to thigh and leg meat. Therefore, withdrawal of this rejection is appropriate, and is respectfully requested.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6905 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

JOY CAMPBELL ET AL.

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 21 day of June, 2006.

Name J. M. D. Gustin-Woessner

Signature J. M. D. Gustin-Woessner